

TESTIMONY OF
BONNIE STEWART
VICE PRESIDENT OF GOVERNMENT AFFAIRS
CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION
BEFORE THE
FINANCE, REVENUE AND BONDING COMMITTEE
MARCH 28, 2011

My name is Bonnie Stewart. I am vice president of government affairs for the Connecticut Business and Industry Association (CBIA). CBIA represents approximately 10,000 member companies in virtually every industry. They range from large, global corporations to small, family owned businesses. The vast majority of our member companies have fewer than 50 employees.

CBIA supports **SB 1214 An Act Concerning Revisions To The Nonresident Contractor Bond Statute**. This measure simplifies the policies and procedures associated with nonresident contractors. This is important because there is very little public awareness of the nonresident contractor laws, which creates a trap for property owners who might not have regular dealings with construction contracts. We appreciate the willingness of the Department of Revenue Services (DRS) to work on this issue and address many of our concerns.

In reviewing the legislation, one issue was identified which we believe is both inadvertent and easily corrected. We have also shared this opinion with DRS.

As the law exists now, an owner or developer may, when contracting with a nonresident general contractor, either:

- (i) Demand a certificate of compliance from the general contractor; or
- (ii) Withhold 5% of the payments due to the general contractor.

Yet, under the proposed new section 12-430(7)(B), the owner or developer isn't afforded the two options. Instead, they must obtain proof of the posting with the DRS of a bond from a

nonresident general contractor; if not, the owner/developer will be [held](#) responsible for all sales and withholding taxes associated with the project. The owner/developer will lose the ability to “cure” the problem, as can be done now, by withholding 5% of the payments made to the general contractor. [You can see this by comparing lines 27-32 with 170-178.](#)

By way of contrast, a resident or verified general contractor can avoid liability by either obtaining from a nonresident subcontractor proof of the posting with the DRS of a bond or by withholding 5% of the contract price. Please [see Lines 277-284.](#)

This issue is important because the party least likely to be familiar with the nonresident contractor rules is the owner/developer, and not the contractor who regularly works on projects in Connecticut. As a result, an owner/developer may learn of the rule after the project has begun, and should have the ability to shield itself from liability by withholding 5% of the contract price (because the State’s interest will still be protected).

We urge modification of the proposed new section 12-430(7)(B) [so that both options mentioned above are still available to the owner/developer, and](#) adoption of **SB 1214**.

Thank you for the opportunity to share our support for this measure.

